

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

LUFKIN DIVISION

ARTHUR D. HILL

§

VS.

§

CIVIL ACTION NO. 9:15-CV-168

RYAN G. THORP

§

ORDER OVERRULING PLAINTIFF'S OBJECTIONS AND ADOPTING
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Plaintiff Arthur D. Hill, a prisoner previously confined at the Eastham Unit of the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se* and *in forma pauperis*, filed this civil rights action pursuant to 42 U.S.C. § 1983 against Ryan G. Thorp.

The court ordered that this matter be referred to the Honorable Zack Hawthorn, United States Magistrate Judge, for consideration pursuant to applicable laws and orders of this court. The Magistrate Judge has submitted a Report and Recommendation of United States Magistrate Judge. The Magistrate Judge recommends granting the defendant's motion for summary judgment.

The court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record and the pleadings. Plaintiff filed objections to the Magistrate Judge's Report and Recommendation.

The court has conducted a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b). After careful consideration of all the pleadings and the relevant case law, the court concludes that plaintiff's objections lack merit. The competent summary judgment evidence does not demonstrate that the defendant had an opportunity to intervene on plaintiff's behalf during an alleged assault, or that he chose not to intervene, despite having the

opportunity. Therefore, the defendant is entitled to qualified immunity, and to summary judgment on the merits of the claims.

ORDER

Accordingly, plaintiff's objections (docket entry #46) are **OVERRULED**. The findings of fact and conclusions of law of the Magistrate Judge are correct, and the report of the Magistrate Judge (docket entry #44) is **ADOPTED**. Defendants' motion for summary judgment (docket entry #37) is **GRANTED**. A final judgment will be entered in accordance with the Magistrate Judge's recommendation.

So **ORDERED** and **SIGNED** March 9, 2019.

A handwritten signature in black ink, appearing to read "Ron Clark", is written above a horizontal line.

Ron Clark, Senior District Judge